

BUSINESS MEETING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Business Meeting)
)
_____)

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, FEBRUARY 16, 2005

10:02 A.M.

Reported by:
Peter Petty
Contract No. 150-04-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSIONERS PRESENT

Arthur Rosenfeld, Acting Chairman

James Boyd

John L. Geesman

Jackalyne Pfannenstiel

STAFF and CONSULTANTS PRESENT

Robert Therkelsen, Executive Director

William Chamberlain, Chief Counsel

Song Her, Acting Secretariat

Jeff Wilson

Sylvia Bender

Kevin Kennedy

PUBLIC ADVISER

Nick Bartsch

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1 P R O C E E D I N G S

2 10:02 a.m.

3 ACTING CHAIRMAN ROSENFELD: Chairman

4 Keese is on official business, so this is
5 Commissioner Rosenfeld presiding. Call this
6 meeting to order and we'll recite the Pledge.

7 (Whereupon, the Pledge of Allegiance was
8 recited in unison.)

9 ACTING CHAIRMAN ROSENFELD: Consent
10 calendar.

11 COMMISSIONER BOYD: Move the consent
12 calendar.

13 COMMISSIONER GEESMAN: Second.

14 ACTING CHAIRMAN ROSENFELD: All in
15 favor?

16 (Ayes.)

17 ACTING CHAIRMAN ROSENFELD: Opposed?
18 Unanimous.

19 California Climate Registry. Possible
20 adoption of revisions to proposed regulations for
21 the Registry defining the qualification process
22 for service providers. Jeff Wilson is there to
23 inform us.

24 MR. WILSON: Yes. Good morning,
25 Commissioners. I'm Jeff Wilson with the climate

1 change program.

2 And as you know, legislation directs the
3 Commission to undertake certain activities to
4 assist the California Climate Action Registry.
5 The Registry is a nonprofit corporation that
6 records voluntarily recorded greenhouse gas
7 emissions inventories for the California
8 organizations.

9 In 2003 the Commission adopted an order
10 instituting rulemaking to establish regulations
11 that would define a qualification process for
12 Registry service providers. These service
13 providers assist Registry members in establishing
14 and certifying their greenhouse gas emissions
15 inventory.

16 In 2004 the Commission Staff filed draft
17 regulations with the Office of Administrative Law
18 and held a public workshop to discuss proposed
19 regulations. In response to the comments received
20 during the public comment period, the Commission
21 and Registry Staff revised the proposed
22 regulations.

23 Under these revised regulations
24 significant portions of the qualification process
25 that would have been undertaken by the Commission

1 are now proposed to be undertaken by the Registry.
2 This is consistent with legislation which provides
3 that both the Commission and Registry participate
4 in the qualification process.

5 By shifting the detailed review of the
6 applicants' qualifications to the Registry, there
7 will be greater flexibility in the overall
8 qualification process. In conjunction with this
9 shift in responsibility the Commission and
10 Registry Staff have drafted a memorandum of
11 understanding to define our respective roles,
12 responsibilities and tasks.

13 The revised regulations specify that the
14 Commission shall initiate a call for applications
15 by issuing a request for applications for Registry
16 service providers; form an evaluation team to
17 score applicants based on predefined criteria; and
18 shall recommend to the Registry those applicants
19 that pass the Commission's evaluation process for
20 the Registry's application and approval process.

21 We believe that the revised regulations
22 fulfill the Commission's responsibilities as
23 specified in legislation. And will assist the
24 Registry in defining a pool of Registry service
25 providers.

1 We have not received any comments from
2 the public on the revised regulations. And we
3 request the Commission adopt the revised
4 regulations for submittal to Office of
5 Administrative Law.

6 COMMISSIONER BOYD: Mr. Chairman, this
7 item was reviewed and approved by the
8 Transportation and Fuels Committee. And I would
9 move its adoption.

10 COMMISSIONER PFANNENSTIEL: Second.

11 ACTING CHAIRMAN ROSENFELD: Moved by
12 Boyd; seconded by Pfannenstiel. Any discussion?

13 All in favor?

14 (Ayes.)

15 ACTING CHAIRMAN ROSENFELD: All opposed?

16 Carried.

17 Jeff, do you want to tell us more about
18 item 3, or does what you've told us --

19 MR. WILSON: It's very short. It's just
20 an add-on. As I mentioned, to coordinate this
21 two-part process, the Commission and Registry
22 Staff have drafted the MOU.

23 And the MOU specifies that the
24 Commission shall examine an applicant's knowledge
25 and experience in certain areas such as

1 engineering principles, estimation of GHG
2 emissions and auditing and accounting principles.

3 The MOU specifies that the Registry
4 shall examine such areas as an applicant's
5 staffing, financial stability and conflict of
6 interest.

7 And we believe that the MOU will
8 facilitate a coordinated qualification process.
9 And we request that the Commission adopt the MOU.

10 ACTING CHAIRMAN ROSENFELD: Thank you.

11 COMMISSIONER BOYD: Mr. Chairman, first
12 I'd like to commend the staff for the work they've
13 done on these two items, and for the work they've
14 done in facilitating and helping the Registry in
15 cutting down the amount of what some people would
16 say bureaucratic process. I mean we really do
17 make steps to simplify government on occasion.

18 So, I commend the staff for the work
19 they've done on this item. I know the Registry
20 appreciates it. And I will move adoption of the
21 item.

22 COMMISSIONER PFANNENSTIEL: Second.

23 ACTING CHAIRMAN ROSENFELD: Moved by
24 Boyd; seconded by Pfannenstiel. Any discussion?

25 All in favor?

1 (Ayes.)

2 ACTING CHAIRMAN ROSENFELD: Opposed?

3 Thank you, Jeff.

4 Item 4 is pulled and will wait till
5 March 16th.

6 Item 5, Portland State University,
7 Office of R&D -- Research and Sponsored Projects,
8 actually. Possible approval of contract 400-04-
9 009 for \$125,000 to conduct additional
10 quantitative analyses on the widely variant
11 patterns of (1) household consumption,
12 conservation efforts and efficiency investments
13 between the years 2000 and 2003; and (2) household
14 reactions to dynamic pricing pilot programs.
15 Funded by ERPA. And Sylvia Bender is going to add
16 a bit on that.

17 MS. BENDER: Yes. Good morning. This
18 is actually a contract for some follow-on work
19 that was done by Washington State University
20 earlier.

21 We contracted with Washington State with
22 Dr. Loren Lutzenhiser as the principal
23 investigator for a period from May 2001 to
24 December 2004, as part of the peak load reduction
25 program.

1 That contract specifically focused on
2 behavioral aspects of response to the energy
3 crisis.

4 That contract has now ended and there
5 were a number of key findings in that contract
6 which reveal that conservation was widely
7 performed across a very diverse population. But
8 with some significant differences between
9 households and their abilities to actually save
10 large amounts of energy.

11 But these findings point to a population
12 that is, as of yet, not fully tapped in terms of
13 the kinds of conservation responses we might
14 expect in the future.

15 As part of that initial contract we have
16 amassed a very large data set that consists of two
17 waves of telephone surveys that covered 1600
18 people in California; follow-on surveys with
19 another 800 of those same people. Matched billing
20 data that go to those households. And then
21 another set of 25,000 random case samples from the
22 other utilities in California; weather data; other
23 industry energy use.

24 And what we'd like to do is tap that
25 data set a little bit more for two specific

1 reasons. And we think that there is further
2 research to be done that could identify additional
3 policy directions for producing effective short-
4 term and long-term energy savings; and designing
5 dynamic pricing strategies that recognize these
6 variant consumption patterns and profiles.

7 The unique thing about this work is that
8 this work is coming from a sociological
9 perspective. The team is a combination of
10 sociologists and economists. So it's a slightly
11 different perspective.

12 And they're also, again, focusing very
13 much on this variation in pattern, which we think
14 is a very critical thing to understand for policy
15 purposes going forward.

16 ACTING CHAIRMAN ROSENFELD: Sounds good
17 to me.

18 COMMISSIONER PFANNENSTIEL: Mr.
19 Chairman, I just have a quick question. When will
20 we get the beginning responses back, and how
21 useful will they be to us?

22 MS. BENDER: We're not doing additional
23 data collection on this. We are using the
24 material that we have. We're using data that's
25 been collected through 2002.

1 We have some utility billing data
2 through 2003. We want to fill that set out. So
3 that's the only data collection that we'll do.

4 COMMISSIONER PFANNENSTIEL: So there is
5 a little more data collection?

6 MS. BENDER: There won't be additional
7 survey research.

8 COMMISSIONER PFANNENSTIEL: I see. And
9 then when will we get some results, some of the
10 analytical results?

11 MS. BENDER: We're -- in the contract,
12 the first deliverable -- we usually set this up so
13 that there's a final report at the end, but a
14 series of briefings that go throughout the life of
15 the project. And we have those slated to start in
16 April.

17 COMMISSIONER PFANNENSTIEL: Thank you.
18 Mr. Chairman, then I will move the item.

19 COMMISSIONER GEESMAN: Second.

20 ACTING CHAIRMAN ROSENFELD: Any
21 discussion?

22 All in favor?

23 (Ayes.)

24 ACTING CHAIRMAN ROSENFELD: Opposed?

25 Four to one, thank you -- four to everything. I'm

1 not used to a four-person committee here, sorry.

2 Thank you, Sylvia.

3 MS. BENDER: Thank you.

4 ACTING CHAIRMAN ROSENFELD: IEPR. Not
5 an action, a status report. Kevin Kennedy.

6 MR. KENNEDY: Good morning,
7 Commissioners. I'm Kevin Kennedy, the Project
8 Manager for the 2005 Integrated Energy Policy
9 Report. I'm here today to provide an update on
10 the data submission activities around the demand
11 forecast for the IEPR.

12 At this time the demand forecasts were
13 due from the load-serving entities on February
14 1st. And we have received the forecasts from all
15 of the major players and many of the smaller
16 players at this stage.

17 In terms of the investor-owned
18 utilities, we received all three of their demand
19 forecasts very close to the deadline. In terms of
20 the electricity service providers we were
21 expecting forecasts from five entities. We have
22 received them from four, so far.

23 In terms of the municipal and other
24 utilities, we received the filings from SMUD and
25 LADWP, again, very close to the deadline.

1 At this point we still have outstanding
2 eight of the municipal and other utilities data
3 collections.

4 We're in the process of contacting the
5 folks who have not filed yet. We are also
6 planning to put together a letter that would go
7 out from Bob Therkelsen reminding the folks who
8 have not filed, that the deadline has passed.

9 And what we would suggest at this stage
10 is that we return in two weeks with a final update
11 on where we stand in terms of additional filings.
12 Along with, if it is appropriate at the time,
13 specific recommendations for enforcement actions
14 that could or should be taken. Possible adoption
15 of a subpoena by the Commission to compel the
16 production of the forecasts that may still be
17 missing at that point. Or possible staff
18 initiation of a complaint and investigation
19 proceeding that could result in fines for the
20 folks who have not filed.

21 At this stage I'd say that we're still
22 also looking at the filings that we have received
23 to confirm that they are complete and actually
24 meet all of the requirements that we had in terms
25 of what came in.

1 For many of them, particularly the IOUs
2 and the electricity service providers, we're also
3 in the process of reviewing applications for
4 confidentiality for large portions of the data.
5 Because that is on a very short timeline, that has
6 been a lot of the initial focus has been pulling
7 together what we need to do for the
8 confidentiality review.

9 So that's the current status. So the
10 recommendation at this point would be for staff to
11 come back in two weeks with more update and
12 possible recommendations at that point for
13 specific actions.

14 COMMISSIONER BOYD: Mr. Chairman.

15 ACTING CHAIRMAN ROSENFELD: Commissioner
16 Boyd.

17 COMMISSIONER BOYD: Kevin, the table we
18 have in front of us has quite a few blank spots.
19 Has there been any updates you want to make of any
20 of these blank spots before I ask a question about
21 some of them or is this table up to date?

22 ACTING CHAIRMAN ROSENFELD: It's dated
23 February 3rd.

24 MR. KENNEDY: The table may have a few
25 minor updates from that, but in terms of there has

1 not been a lot of additional filing from the
2 middle of last week. So, if there are particular
3 ones that you are interested and concerned about,
4 want to ask about I will answer if I can. I may
5 also turn to some of the technical staff.

6 COMMISSIONER BOYD: Well, I didn't want
7 to embarrass the Department of Water Resources if
8 they had done something since, but --

9 MR. KENNEDY: We have not received
10 anything from DWR yet. That's right.

11 COMMISSIONER BOYD: Let's see, they are
12 right across the street, I believe. Okay, thank
13 you. I just noted a sister state agency is
14 delinquent here.

15 Mr. Therkelsen, certainly you ought to
16 be able to -- a can and a string?

17 MR. THERKELSEN: We will be in
18 communication with DWR.

19 COMMISSIONER BOYD: Thank you.

20 ACTING CHAIRMAN ROSENFELD: Can I assume
21 that takes care of item 6?

22 Item 7, Betty McCann is going to tell us
23 about Peters Shorthand.

24 MR. THERKELSEN: Actually Betty McCann
25 won't, she is out --

1 ACTING CHAIRMAN ROSENFELD: Oh, she told
2 me that.

3 MR. THERKELSEN: -- today. So I will
4 tell you about this. Basically the IEPR Committee
5 has been burning our money up fast and furious.
6 And we need to augment the contract to be able to
7 have sufficient dollars for the hearing reporter
8 to follow the IEPR Committee around the state.

9 ACTING CHAIRMAN ROSENFELD: That's the
10 best sales pitch I've heard this morning.

11 COMMISSIONER GEESMAN: I'll move the
12 item.

13 COMMISSIONER BOYD: I'll second the
14 item. You just heard from the IEPR Committee.

15 ACTING CHAIRMAN ROSENFELD: Any
16 discussion? No discussion.

17 All in favor?

18 (Ayes.)

19 ACTING CHAIRMAN ROSENFELD: Opposed?
20 Unanimous.

21 Betty can't submit the minutes. But I
22 guess we can approve them without her.

23 COMMISSIONER GEESMAN: Move approval of
24 February 2nd minutes.

25 COMMISSIONER PFANNENSTIEL: Second.

1 ACTING CHAIRMAN ROSENFELD: All in
2 favor?

3 (Ayes.)

4 ACTING CHAIRMAN ROSENFELD: Unanimous.
5 Commission Committee and Oversight.

6 COMMISSIONER BOYD: Mr. Chairman, if I
7 might, although it's had a lot of notoriety in the
8 press today, I just want to point out today is the
9 day that the Kyoto Protocol goes into effect. And
10 our country is not part of that.

11 But I'm proud to be associated with this
12 agency and the nation-state of California, which
13 has had a lot of activity in the climate change
14 arena.

15 I just would want to note that the
16 Energy Commission, long before I got here, I guess
17 back in 1989 started activities in the climate
18 change arena. And we have our own very distinct
19 Advisory Committee, which includes Professor
20 Schneider at Stanford, who had a lengthy interview
21 on NPR this morning.

22 And we have the chairmanship of the
23 Joint Agency Climate Change Team, and we earned
24 California's way into the Climate Group, which
25 originally was called the Conference of Reducers,

1 as the nation-state of California, by frankly all
2 the efficiency and renewable activities that this
3 agency had carried out in years past.

4 So, I just thought I would like to note
5 that for the record on this fairly significant
6 day. I'm sure we'll hear more about this subject
7 in the future.

8 ACTING CHAIRMAN ROSENFELD: I'm
9 certainly proud to be associated with all these
10 efforts; and I'm sure the others are, too.

11 Chief Counsel.

12 MR. CHAMBERLAIN: Yes, Mr. Chairman. I
13 know it's kind of old news now, but for the record
14 I think I will mention that the Ninth Circuit of
15 Appeals did uphold the Commission's regulations
16 gathering data on appliances. We consider this to
17 be very important if it can hold up.

18 We do anticipate -- it was a two-to-one
19 decision, and we do anticipate a petition for
20 rehearing, or rehearing en banc, and there may
21 even be a petition for a writ or certiorari in the
22 Supreme Court.

23 So it's not over yet, but we're very
24 pleased with the decision. We think the decision
25 was well-reasoned and are optimistic about our

1 chances of continuing to prevail in this matter.

2 COMMISSIONER PFANNENSTIEL: Mr.
3 Chamberlain, any sense of the timing of what might
4 happen next?

5 MR. CHAMBERLAIN: The petition for
6 rehearing is due tomorrow, although the clerk can
7 give them an additional seven days.

8 And we are not allowed to file a
9 response unless the court asks for one. However,
10 they will not grant a petition for rehearing
11 without asking for a response. So we're kind of
12 hoping they don't ask for a response.

13 COMMISSIONER PFANNENSTIEL: Thank you.

14 ACTING CHAIRMAN ROSENFELD: Good.
15 Executive Director.

16 MR. THERKELSEN: Good morning,
17 Commissioners. Three quick items. First of all,
18 last business meeting you heard from San Diego
19 requesting that there be a meeting with the staff
20 on confidentiality issues related to the IEPR data
21 requests.

22 We did hold that workshop with the
23 investor-owned utilities and other folks yesterday
24 afternoon. And I think it identified some
25 additional information, and things for the staff

1 to mull around in terms of looking at its
2 confidentiality determinations.

3 The second thing to report on is we have
4 a hearing before the Senate scheduled -- Senate
5 Energy Committee, next Tuesday. Talk about the
6 2005 electricity situation.

7 I will be presenting information on
8 behalf of the Commission there. The PUC and the
9 Independent System Operator will also be
10 participating in that hearing. And we have a
11 premeeting with the Senate Energy Committee Staff
12 this afternoon to discuss that hearing.

13 The last item I have is for awhile, you
14 know, some folks have asked whether there is a way
15 that they can get internet access within the
16 building, even though they are not part of the
17 staff, especially while they have time on their
18 hands, or they need to retrieve messages.

19 We will shortly be installing a little
20 device that will allow people to get access to the
21 internet while they're here in the Commission
22 building. They'll be able to get it here on the
23 first floor, probably the second and third floor
24 conference rooms, outside of the second floor
25 patio area, as well. So that will be available

1 fairly soon.

2 COMMISSIONER BOYD: Is this wireless?

3 MR. THERKELSEN: It's wireless. And it
4 also will not allow them to tap into our system.
5 So it is also secure.

6 ACTING CHAIRMAN ROSENFELD: Sounds very
7 useful.

8 MR. THERKELSEN: Yes.

9 COMMISSIONER GEESMAN: Mr. Chairman.
10 Bob, on the confidentiality question, we obviously
11 encouraged you to meet with the utilities after
12 our last business meeting in determining whether a
13 collaborative approach would be of any benefit.

14 And I think I said at the last meeting
15 that I expected us to be driven or governed by our
16 regulations and our statute in this area. I asked
17 the utilities to recognize that.

18 It occurs to me that, you know, in
19 addition to that statutory and regulatory
20 guidance, there are potentially policy questions
21 involved. And because this is at least initially
22 your call, I would encourage you to place quite a
23 bit of reliance on the letter that Chairman Keese
24 sent President Peevey in the spring of 2003, as
25 the best articulation of the Commission's policy

1 in this area.

2 I recognize Commissioner Pfannenstiel
3 was not a member of the Commission at the time, so
4 it obviously doesn't speak for her. But I think
5 the Chairman captured our interests quite well at
6 the time. And, at least from my standpoint, I
7 don't believe those have changed since he sent
8 that letter.

9 So I'd encourage you, to the extent that
10 you do weigh policy considerations, to place
11 substantial reliance on that correspondence that
12 he had with President Peevey.

13 MR. THERKELSEN: I think it's fair to
14 say that many of the participants in the
15 discussion yesterday, and it was public, by the
16 way, and we did have people other than the
17 investor-owned utilities present, but I think it's
18 fair to say that they have been used to the PUC's
19 approach. And wanted, in some instances, us to
20 use that as a starting point.

21 We pointed out both our regulations do
22 start at a different place, and actually putting
23 presumption, or burden, if you will, on the
24 requester to show why they're request is
25 appropriate, and why confidentiality is a prudent

1 thing to do in their circumstance.

2 We also pointed out that letter, and the
3 fact that the Commission's basically policy
4 statements have been we would prefer things to be
5 open and available to the public.

6 One of the debates we heard yesterday
7 was what is in the interests of the public as
8 members of the public versus the interests of the
9 public as ratepayers. And that's, you know, an
10 interesting policy tradeoff there. Because a
11 ratepayer wears two hats in some of these items,
12 and which of those interests do you weigh over the
13 other one.

14 COMMISSIONER GEESMAN: You know, we also
15 recently had an experience that didn't case any of
16 us in a particularly good light, but I think that
17 it did speak well of the public process. And that
18 is the development by the PUC Staff of the market
19 price referent for the RPS program.

20 And although it was the PUC Staff's
21 responsibility to develop that, our collaborative
22 staff certainly participated in that process. And
23 the Renewables Committee had an opportunity to
24 look at the work that had been done, and the
25 effort to develop the MPR, as they call it, I

1 think first was made public last week at some
2 point.

3 The initial MPR published was wrong, you
4 know. It managed to get through the scrutiny, not
5 just the PUC Staff, but our gas forecasting group,
6 our renewables staff, certainly the Renewables
7 Committee and our respective staffs in the
8 Commissioners' offices.

9 Thank goodness PG&E caught the error. I
10 don't believe that they would have had this not
11 been a fishbowl type of process.

12 And I think we need to recognize that a
13 lot of numbers floating around, a lot of fairly
14 complex calculations being made. None of us are
15 infallible. We're going to make mistakes. Those
16 mistakes are likely to get corrected the quickest
17 if they are subject to an open public scrutiny.

18 And I think that that applies as much in
19 the other areas that the IEPR process touches
20 upon, as it does in the market price referent.

21 MR. THERKELSEN: I understand your
22 point, and I think that's correct.

23 ACTING CHAIRMAN ROSENFELD: Legislative
24 Director's report. Seeing none.

25 Public Adviser. Seeing none.

1 COMMISSIONER GEESMAN: We have the
2 representative here.

3 ACTING CHAIRMAN ROSENFELD: Sorry about
4 that.

5 MR. BARTSCH: Mr. Chairman, Members,
6 Nick Bartsch substituting for Margret Kim. We
7 don't have anything to report this morning.

8 ACTING CHAIRMAN ROSENFELD: Public
9 comment? Anybody on the phone?

10 Boy, we're going to be through in less
11 than half an hour.

12 COMMISSIONER BOYD: Mr. Chairman.

13 ACTING CHAIRMAN ROSENFELD: Yes, sir.

14 COMMISSIONER BOYD: One item that maybe
15 could have been under Committee Oversight, or
16 maybe even Public Adviser's, the IEPR Committee
17 tomorrow will be traveling again. And we'll be
18 joining the PUC in the joint workshop on natural
19 gas issues, LNG and -- natural gas quality issues
20 of LNG and natural gas.

21 And I just wanted to note that for the
22 record. Another evidence of the very cooperative
23 relationship we've developed with the PUC and
24 working on issues that affect both of us.
25 Commissioner Geesman and I will be taking the new

1 shorthand reporter, I guess, to San Francisco
2 tomorrow for two days.

3 ACTING CHAIRMAN ROSENFELD: Thank you.
4 This meeting is adjourned.

5 (Whereupon, at 10:29 a.m., the business
6 meeting was adjourned.)

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CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Business Meeting; that it was
thereafter transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
meeting, nor in any way interested in outcome of
said meeting.

IN WITNESS WHEREOF, I have hereunto set
my hand this 25th day of February, 2005.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345